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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

IN THE MATTER OF)

Amendments of Parts 32, 36, 61,)
64, and 69 of the Commission's Rules)
to Establish and Implement Regulatory)
Procedures for Video Dialtone Service)

RM-8221

REPLY COMMENTS OF
BROADBAND TECHNOLOGIES, INC.

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BroadBand Technologies, Inc. ("BroadBand"), by its attorneys, hereby submits its reply comments to the Joint Petition ("Petition") of the Consumer Federation of America and the National Cable Television Association, Inc. ("NCTA") filed on April 8, 1993. The Petition proposes that the Commission (1) initiate a rulemaking to establish video dialtone-specific rules for video dialtone service, (2) establish a Federal-State Joint Board to recommend procedures for separating the cost of local telephone service company plant that is used jointly to provide telephone service and video dialtone, and (3) hold in abeyance pending and future Section 214 applications until these issues have been resolved.

I. UNDER NO CIRCUMSTANCES SHOULD THE COMMISSION DELAY THE INTRODUCTION OF VIDEO DIALTONE SERVICE

A review of the comments reveals that, by and large, the only parties that support delaying the processing of video dialtone Section 214 applications are companies that merely seek to forestall competition in the video services market.^{1/} These

^{1/} See, e.g., Comments of New Jersey Cable Television Association.

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parties, like NCTA, have a direct financial interest in delaying the implementation of video dialtone which promises to provide consumers with viable competitive alternatives to such parties' video service offerings.^{2/} For the Commission to acquiesce to these suggestions would only serve to deprive the public of the benefits that the FCC envisioned with the rapid introduction of video dialtone -- the development of an advanced, broadband telecommunications infrastructure, increased competition in the video marketplace, and enhanced diversity of video services to the American public to promote consumer choice.^{3/} Moreover, as BroadBand has previously demonstrated, barring regulatory delay, these benefits can be made available to American immediately through video dialtone technology currently offered by BroadBand.^{4/} In addition, the longer the FCC impedes the

^{2/} See accord Comments of the World Institute on Disability et al. at 3-4; Comments of Bell Atlantic at 1; Comments of Ameritech at 2; Comments of NYNEX at 5.

^{3/} See Telephone Company-Cable Television Cross-Ownership Rules, Second Report and Order, 7 FCC Rcd. 5781 (1992) ("Video Dialtone Order") at 5836, 5840, 5858, paras. 105, 117, 157, and n. 295 ("the public interest is served by the prompt implementation of video dialtone ..."); see accord Comments of the World Institute on Disability et al. at 3; Comments of NYNEX at 5; Comments of Ameritech at 4; Comments of BellSouth at 4; Comments of Pacific Companies at 2.

^{4/} BroadBand's Fiber Loop Access ("FLX") System provides the transport and switching functions that allow subscribers on video dialtone platforms to access narrowband and broadband telecommunications services offered by service providers. See, e.g., BroadBand Ex Parte Letter from M. Haratunian to D. Searcy in W-P-C-6840 and W-P-C-6838 (dated May 3, 1993); Comments of BroadBand in CC Docket No. 87-266 (dated October 13, 1992); BroadBand Ex Parte Letter from J. Obuchowski to D. Searcy in CC Docket No. 87-266 (dated June 16, 1992).

availability of video dialtone, the greater the risk that governmental delays will allow foreign companies to undermine the technical lead earned by BroadBand and other American companies in the U.S. marketplace. Like BroadBand, the vast majority of commenters actively oppose any FCC action that would delay the introduction of video dialtone service.^{5/}

A. There Is No Need To Delay The Introduction Of Video Dialtone Service To Create Video Dialtone-Specific Rules

BroadBand agrees with those commenters who oppose postponing the processing of pending and future Section 214 applications to initiate a new rulemaking to develop video dialtone-specific rules.^{6/} As the Commission expressly found, since video dialtone is a regulated, common carrier service similar to many other regulated voice and data services provided by telephone companies, it is appropriate to apply the same regulations to

the arguments favoring video dialtone-specific rules contained in the Petition and the comments of NCTA^{8/} and others in earlier rounds of the Video Dialtone proceeding.^{9/} Moreover, neither the Petition nor the comments filed in response thereto, raise any legitimately new developments that would warrant the commitment of scarce Commission resources to such a rulemaking at this time. In the event that these rules need to be modified with particular video dialtone proposals, the FCC has expressly stated that it will so modify its rules on a case-by-case basis in the Section 214 process; in addition, the FCC has already ruled that any more comprehensive rule changes that may be necessary will be made during the planned review of the video dialtone rules in two years.^{10/} These rulings make clear that the FCC has already determined that there is no need at this time to delay the processing of video dialtone Section 214 applications to develop video dialtone-specific rules.

B. There Is No Need To Delay The Introduction Of Video Dialtone To Resolve Applicable Separations Issues

BroadBand agrees with those commenters who argue that it would not be premature for a Federal-State Joint Board to begin

^{8/} See, e.g., Comments of NCTA in CC Docket No. 87-266 (dated Feb. 3, 1992) at 23-37.

^{9/} Video Dialtone Order, 7 FCC at 5840, para. 116; see accord Comments of Bell Atlantic at 6-10; Comments of BellSouth at 4; Comments of NYNEX at 4, 6; Comments of Pacific Companies at 3-4.

^{10/} Video Dialtone Order, 7 FCC Rcd. at 5812, 5832, 5840, paras. 60, 68, 86, 117; see accord Comments of Bell Atlantic at 10.

addressing the separations issues related to the provision of video dialtone service.^{11/} Pursuant to Section 410 of the Communications Act, to the extent that plant used to provide video dialtone services is also used jointly to provide interstate and intrastate telephone services, the costs associated with such plant should be jurisdictionally separated according to procedures developed by a Federal-State Joint Board.^{12/} The adoption of such procedures ideally should be pursuant to the comprehensive Parts 36 and 69 reform already announced by the FCC^{13/} or pursuant to the existing CC Docket No. 80-286 Joint Board,^{14/} whichever is more expeditious. The creation of a new Joint Board convened to address only video dialtone separations issues appears to be unnecessarily time consuming and would create unnecessary administrative burdens on both federal and state regulatory staffs.

Regardless of which Joint Board is utilized, the Commission should not delay the processing of pending or future video


^{11/} See, e.g., Comments of AT&T at 6; Comments of BellSouth at 2. Comments of California PUC at 2.2. Comments of D-C-DCG at 4.

dialtone Section 214 applications during the pendency of the
Joint Board proceeding, typically a long and cumbersome
process.^{15/} In the interim, the Commission should continue to

its voice in support of those parties urging the Commission to
dismiss the Petition.

Respectfully submitted,

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June 7, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of BroadBand Technologies, Inc. was served by first class United States mail, postage prepaid, on each of the parties named on the attached service list, this 7th day of June 1993.



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